

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF PENNSYLVANIA**

**ASSATA ACEY,**

*Plaintiff*

v.

**INDUCTEV,**

*Defendant.*

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**CIVIL ACTION**

**No. 2:23-01438-PD**

**Plaintiff's First Submission of Pre-Trial Memoranda**

Case summary:

I, Plaintiff, allege that my former employer, InductEV/Defendant discriminated against me from 05/23/2021 and that this discrimination continued through the statutory period (12/11/2021-09/27/2022) by four major categories: failure to promote due to race, hostile work environment due to race, hostile work environment due to gender, and retaliation for filing a charge.

The Defendant denies any wrongdoing in this case, asserts all available affirmative defenses, and argues that our dispute was initially settled in a verbal agreement during mediation. The Defendant has made no counter-claims.

**Witness List** *(See exhibit list and or asserted facts and evidence for designations)*

Omar Jackson- Deposition Transcript

Daniel Hackman- Deposition Transcript

Jacqueline Acey- Deposition Transcript

Maria Tabbut- Deposition Transcript

Assata Acey- Deposition Transcripts, Deposition Video clips, and Live testimony

Seth Wolgemuth Live Testimony- as needed to discuss qualifications and InductEV work environment

**Plaintiff's asserted facts and evidence (including Designations) to be presented at**

**trial:**

*\*Compiled transcripts/summaries are listed alongside their original documentation. FRE*

*1006\**

I. Hostile Work Environment due to Gender-

**Behaviors-Gender**

1. I attended InductEV's diversity and harassment training with Bogdan Proca as a part of orientation 07/13/2021.

**Plaintiff's Trial Exhibit (PTE) 1 (07/13/2021 training certificate). PTE 2 (07/16/2021 Teams Messages between myself and my Supervisor, Doc 40 transcript (I)(1), originals filed in Doc 40-2 pp. 1-20).**

2. Within 6 days of training, Proca compared me to dark chocolate ice cream.

**PTE 3 (07/19/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (I)(2), originals filed in Doc 40-2 pp.21-26). PTE 4 (04/11/2024 A. Acey Dep. Transcript, pp. 272 (ll24)-274). PTE 5 (04/11/2024 A. Acey Dep. Transcript, pp. 290(ll21)- 292).**

3. 14 days after training, Bogdan Proca chased me around the lab after most employees had left.

**PTE 6 (07/28/2021 Teams Messages between myself and my Supervisor, Doc 40**

**Transcript (I)(3), originals filed in Doc 40-2 pp. 27-34). PTE 7 (04/11/2024 A. Acey Dep. Transcript, pp. 278(II3)-282(II10). PTE 8a (03/27/2024 J. Acey Dep. pp. 57-63). PTE 8b (03/27/2024 J. Acey Dep. pp. 78-80, 87-93).**

4. Roughly one month from 09/22/2021, Bogdan Proca left his desk, approached my work unit and continued to stare and follow me before causing sparks to come out of said unit.

**PTE 9 (10/15/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (I)(6), originals filed in Doc 40-2 pp. 101-124). PTE 10 (04/11/2024 A. Acey Dep. pp.275-277).**

5. On 12/10/2021, I attended a coworkers' lunch and witnessed Proca suggest that another employee find a "local wife" after emigrating.

**PTE 11 (12/10/2021 Text messages between myself and my husband pp.711(11:20:07 am- 11:20:43 am), 715(13:22:12)-716(13:25:31)). PTE 12 (03/01/2022 Text messages between myself and my Husband pp.1847(12:18:46)- 1848(12:23:03)).**

6. Before or during my employment, Robert "Bob/Rob S." Sweirzawski was hired as quality (QA) engineer.
7. Sweirzawski was responsible for approving my units, and on 08/17/2021, he made jokes about me during an inspection.

**PTE 13 (08/17/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(2), originals filed in Doc 40-2 pp. 735-740).**

8. At some point before 11/16/2021, Sweirzawski flagged one of my devices for flow assembly alignment.

**PTE 14 (11/16/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(11)(3:05PM-3:28:21PM), originals filed in Doc 40-2 pp. 838-867).**

9. Sweirzawski was also responsible for approving devices at pai, and had been included in emails discussing the flow assembly he had flagged.

**PTE 15 (10/22/2021 and 10/28/2021 Emails and Teams Messages between myself, QA Team, and my Supervisor, Doc 40 Transcripts (III)(7-9), *originals filed in Doc 40-2 pp. 763-771, 1723-1734*).**

10. On 12/14/2021, InductEV employees *asked* me to clean a unit that another department was responsible for. Then as I consulted my manager, Sweirzawski *told* me to clean it and I tried to laugh it off.

**PTE 16 (12/14/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(14), *originals filed in Doc 40-2 pp. 933-1089*).**

11. On 04/07/2022, Sweirzawski was seen tampering with one of my cabinet enclosures.

**PTE 17 (04/07/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(18), *originals filed in Doc 40-2 pp. 1110-1121*).**

12. On 12/07/2021, InductEV employee Mike Russell touched my shoulder from behind in the office hallway.

**PTE 18 (12/07/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (I)(11), *originals filed in Doc 40-2 pp. 173-192*).**

13. On 04/07/2022, I observed another male employee, “Gary” looking up and down at my body without acknowledging my face. **PTE 19 (04/07/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (I)(13), *originals filed in Doc 40-2 pp. 243-254*).**

## **Motivations-Gender**

1. Prior to my complaints of his behavior (07/16/2021-12/10/2021), Proca commented that it was “natural” for supervisors to date subordinates.

**PTE 2 (See fact 1 under “behaviors-gender”). PTE 20 (04/11/2024 A. Acey Dep. pp. 269(II16)-272(II21)).**

2. Soon after my first complaint of Sweirzawski's behavior but before the others (11/2021-4/2022), he emphasized my and another woman (Maria Tabbut)'s being "ladies" while minimizing our involvement in a defect investigation.

**PTE 21 (08/30/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(3), *originals filed in Doc 40-2 pp. 741-748*).**

3. Sweirzawski also ignored Ms. Tabbut's authored enclosure assembly documents, leading to his flagging of flow assemblies around 10/22/2021; on 10/22/2021, Sweirzawski also arrived for his enclosure inspection with popcorn (in lieu of the assembly documents).

**PTE 22 (11/18/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(13), *originals filed in Doc 40-2 pp. 900-932, 1737-1738*). PTE 23 (10/22/2021-11/18/2021 Teams Messages between myself and Maria Tabbut, Doc 40 Transcript (III)(6), *originals filed in Doc 40-2 pp. 757-762*).**

4. Around 10/08/2021, I experienced harassment from InductEV-tenant("Ron")'s assistant, "Volans", during which he began purchasing items on my behalf against my consent.

**PTE 24 (10/08/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (I)(5), *originals filed in Doc 40-2 pp. 37-100*).**

5. At least three employees present during my tenure at InductEV have been observed in directly sexual conduct:

- a) Former InductEV employee, Bill Gallagher, was witnessed openly using a photoshopped image of a woman politician in a bikini as his desktop image, and later commenting to others about the physical appearance of a female investor.

**PTE 25 (04/09/2024 D. Hackman Dep. pp. 31(117)-32(1120)).**

- b) InductEV employee, Mike Haggerty, was witnessed joking several times about telling a female intern to "spread her legs" during a soldiering process.

**PTE 26 (04/09/2024 D. Hackman Dep. p. 37(113-17)).**

- c) InductEV employee, John Wolgemuth was witnessed discussing his view of appropriate role for his wife, and that she should be content as a housewife.

**PTE 27 (04/09/2024 D. Hackman Dep. pp. 123(114)-125(118)).**

#### **Awareness-Gender**

1. one month prior to my complaint about “Ron” 's assistant, a member of InductEV’s managerial staff, Jerry Frank, expressed general concern over me working late while “Ron” used the lab.

**PTE 28 (09/09/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (I)(4), *originals filed in Doc 40-2 pp. 35-36*).**

2. Sweirzawski’s deviation from Ms. Tabbut’s procedures and specifications was also accepted and repeated by his manager, Joe Sokalski.

**PTE 29 (04/08/2024 M. Tabbut Dep. pp. 163(114)-166(111)).**

3. On 04 12/20/24 Talis claimed to only recall one “incident” between me and Sweirzawski. She further claimed to have investigated and documented any of my complaints, yet InductEV has produced no such documentation.

**PTE 30 (04/12/2024 Judy Talis Certification).**

4. Talis was also the facilitator during the 07/13/21 orientation that Proca and I attended.

**PTE 1 (See fact 1 under “behaviors-gender”).**

5. On 09/22/2021, I attended a one-on-one, employee check-in, meeting with Talis, during which I complained of Proca’s behavior as sexual harassment.

**PTE 31 (09/20/2021 90-day Check-in Invite Screenshot, doc. 111-1).**

6. During that same meeting, Talis brushed my complaints of sexual harassment aside.

**PTE 4 (*see fact 2 under “behaviors-gender”*). PTE 32 (04/11/2024 A. Acey Dep**

**p.283(II4-19)). PTE 33 (04/11/2024 Acey A. Deposition pp. 101-103). PTE 34 (03/14/2024 Complaint, Doc 8-1 pp. 13-14).**

7. I also complained of Proca's behavior to my supervisor.

**PTE 32 (*see above citation*).**

8. While interviewing to work for InductEV, I complained to (former HR executive) Talis of interview comment I had seen as sexually motivated. She brushed my complaint off as a joke.

**PTE 35 (04/28/2021 Interview Evaluation from Bruce Mitchell, Defendant's AA-9).**

**PTE 36 (04/11/2024 A. Acey Dep. pp. 24(II9)-29(II21), pp.83-88(II10), pp.159(II11)-pp 161(II20).**

9. On 02/11/2022, Talis vocally implied that I was pregnant, after I disclosed working from home due to nausea.

**PTE 37 (02/11/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(27), *originals filed in Doc 40-2 pp. 614-636*).**

#### **Severity-Gender**

1. On 11/16/2021 Concerns of others tampering with my enclosures became so strong that I had to begin placing seals on cabinets at the end of each workday.

**PTE 38 (11/16/2021 Teams messages between myself and my Supervisor, Doc 40 Transcript (III)(10), *originals filed in Doc 40-2 pp.772-785*).**

2. On 04/03/2024, former employee, Omar Jackson, claimed to have observed me as emotional and unresponsive at least once during my employment with InductEV.

**PTE 39 (04/03/2024 O. Jackson Dep. pp. 37(II14)-38 (II15)).**

3. On 02/23/2022, I expressed discomfort and suspicion towards other male coworkers to

my supervisor

**PTE 40 (02/23/2022 Teams and Text Messages between myself and my Supervisor, ECF 15-52(pp. 2-3) and ECF 15-53(pp. 2-3)).**

4. On 12/07/2021, I became angry Mike Russell tapped my shoulder.

**PTE 18 (*see fact 12 under “behaviors-gender”*).**

5. On 04/09/2024 my spouse, D. Hackman, testified that I expressed discomfort during my employment with either attending or saying no to one male coworker’s lunch invitations for fear of sexual and romantic undertones.

**PTE 41 (04/09/2024 D. Hackman Dep. pp. 49(119)-51(111)).**

## II. Hostile work Environment due to Race

### **Behavior-Race**

1. On 09/01/2021, HR demanded an apology for my RSVP-ing to a meeting invite two days after it was sent, because the organizer had complained after my RSVP.

**PTE 43 (09/01/2021 Apology Email and Meeting Screenshot, ECF 15-45).**

2. Between 10/05/2021 and 10/13/2021, InductEV required proof of purchase for both a new phone and my previous phone after my previous phone became damaged at work (09/30/2021). **PTE 44 (10/05/2021-10/13/2021 Emails between myself and D. Wilmes (HR)). PTE 45 (04/11/2024 A. Acey Dep. pp. 167(112)-168(1120), 170(114)-173(1119), 174(113)-176(1121)).**

3. On 10/25/2021, Talis accused me of stealing company time in front of other employees.

**PTE 46 (10/25/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(14), *originals filed in Doc 40-2 pp. 415-452*).**

4. Around 07/07/2021, InductEV employee, Taylor Johnson, from a separate department,



personally asserted my job duty to me.

**PTE 47 (07/07/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(3), *originals filed in Doc 40-2 pp. 1544-1547*). PTE 48 (07/07/2021 Teams Messages between myself and my Supervisor, ECF 15-36 and 15-37).**

5. On 08/10/2021, InductEV employees (Rob Rosenberger and Taylor Johnson) criticized how much work I was actually doing, and compared me to a white employee (Chris Schatz) that I was supervising. **PTE 49 (08/10/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(1), *originals filed in Doc 40-2 pp. 703-734*).**

6. On 10/07/2021 Rosenberger (who is white) criticized my job performance. **PTE 50 (10/07/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(4), *originals filed in Doc 40-2 pp. 749-752*).**

7. On 04/21/2022, Rosenberg criticized my work and projects, while in my immediate presence, to a white employee and a team member (Brian Kenney) while refusing to look at or talk to me.

**PTE 51 (04/21/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(19), *originals filed in Doc 40-2 pp. 1122-1154*).**

8. On 01/28/2022, this same team-member (Brian Kenney) closed a door in my face as I transported a team-breakfast delivery from the main entrance to the meeting location (after Kenney opened the door 6 times for the white delivery woman who delivered the food at the main entrance).

**PTE 52 (01/28/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(21), *originals filed in Doc 40-2 pp. 515-569*).**

9. On 10/08/2021, InductEV employees anonymously reported me to the safety committee despite my prior communication and safety compliance.

**PTE 53 (10/08/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(11), *originals filed in Doc 40-2 pp. 1548-1573*).**

10. On 11/17/2021, a white InductEV employee (Tom Hornberger) refused to look me in the eye during a conversation.

**PTE 54 (11/17/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(16), *originals filed in Doc 40-2 pp. 453-476*).**

11. On 12/13/2021, a cartoon was placed outside my cubicle that mocked physics degrees (no other employee--or very few--held a physics degree at that time).

**PTE 55 (12/13/2021 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(17), *originals filed in Doc 40-2 pp. 1620-1631*). PTE 56 (12/13/2021 Screenshot Teams messages between myself and my Supervisor, ECF 15-34 and 15-35(p.2)).**

12. Sometime before 02/18/2022, InductEV employee Jorge Rive insisted on a detailed account of my away-from desk activities despite my communicated discomfort.

**PTE 57(02/18/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(32), *originals filed in Doc 40-2 pp. 1604-1619*).**

13. After being confronted by my supervisor, Rive openly told others that I was not a team player. **PTE 57b (02/24/2022 Teams Messages between myself and my Supervisor, Doc 40-2 pp. 691-702).**

### **Motivations -Race**

1. Johnson also insisted on reading assignments aloud to another black employee (Julian Jackson). Jackson was also openly called lazy, and Jackson's manager (Daniel Winters also white) relocated Jacksons desk for "being too talkative".

**PTE 58 (11/09/2021 Teams Messages between myself and my Supervisor, Doc 40**

**Transcript (II)(9, 12-13, 15), *originals filed in Doc 40-2 pp. 365-367, 387-414, 1574-1595*). PTE 59 (04/03/2024 O. Jackson Dep. pp. 72(II16)-73(II14)).**

2. 01/25/2022, I witnessed Hornberger call for Jackson to get off his “lazy ass” while Jackson was out of earshot, receiving a supplier’s delivery.

**PTE 60 (01/25/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(20), *originals filed in Doc 40-2 pp. 507-514*).**

3. On 09/14/2022, another employee (Steven “Steve” Brown) commented in two separate company chat rooms about a black team-member (Omar Jackson) being “that slacker” whose “nickname should be PTO”.

**PTE 61 (09/14/2022 Teams Messages between members of the Electrical Engineering Team, Doc 40-2, pp. 1711-1712). PTE 62 (09/14/2022 Text Messages between myself and my Supervisor, Doc 40-2 pp. 1715-1718).**

4. On 4/03/2024, O. Jackson initially denied knowing Steve brown multiple times, yet claimed to be close to Brown after being questioned about Brown’s comment.

**PTE 63 (04/03/2024 O. Jackson Dep. pp. 55(II4-12), 66 (II11-16), 99 (II18-24)).**

5. O. Jackson has been known in the past to complain about lack of support and the racial environment a work.

**PTE 64 (01/04/2022 Text messages between myself and my Husband p. 1284 (11:45:06)).**

6. Despite 20 years of relevant experience (including supervisory), managers shared that Omar’s Jackson’s qualifications for the senior technician” title and pay range were rejected due to being 9-months in from a 3-4 year “career gap” (where O. Jackson coached tennis and basketball).

**PTE 65 (04/03/2024 O. Jackson Dep. pp. 93(II8)-94(II19), 96(II-97(II)). PTE 66 (09/03/2021 Promotions Email Thread between Supervisor, HR exec, CEO, and VP**

**of engineering, ECF 20-9).**

7. Nevertheless, Mr. Jackson is described in my text messages and deposition transcripts as one who tries to “keep his head down” among others. **PTE 67 (04/11/2024 A. Acey Dep. pp. 107(1110)-115(1114). PTE 68 (09/04/2022 Text messages between myself and my Husband p. 2798).**

8. During his deposition, Mr. Jackson stated three times his intention to “stay out of” things or to himself.

**PTE 69 (04/03/2024 O. Jackson Dep. pp. 33 (112-23), 38 (112-15), 40 (111-18)).**

9. At least one employee present during my time at InductEV has been observed making explicitly racial comments:

a) On 04/08/2024, Maria Tabbut testified to hearing white employee Chris Williams discussing his ability to say the “n-word”, and William’s later comments that the company was “this far south” after having a black man work in the office.

**PTE 70 (04/08/2024 M. Tabbut Dep. pp.25(1121)-27 (117)).**

b) Ms. Tabbut also testified that: Mr. Williams labelled her as the “person to keep him in check”; it was a culture where people said what they wanted; she did not feel comfortable reporting things and did expect her coworkers to report anything; that she ultimately felt unable to continue working in InductEV’s environment.

**PTE 71 (04/08/2024 M. Tabbut Dep. P27(1117)-35).**

### **Awareness-Race**

1. On 02/10/2022, I complained to a HR executive (Judith “Judy” Talis of racial harassment, yet InductEV continuously postponed corrective action through November 2022.

**PTE 72 (02/14/2022 CAO email commenting on my complaints, Doc 73-3, p. 11;**

**Various dates, HR Training Emails, Doc 73-3 pp. 43-51). PTE 73 (02/23/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(30), *originals filed in Doc 40-2 pp. 637-640*).**

2. Instead, Talis questioned the validity of my complaints as I was giving them.

**PTE 74 (02/10/2022 Text messages between myself and my Husband pp.1672-1673).**

**PTE 75 (02/15/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(31), *originals filed in Doc 40-2 pp. 641-676*).**

3. On 02/14/2024, Talis indicated that company training would be the sole corrective action.

**PTE 73 (See fact 1 under “Awareness- Race”). PTE 76 (04/11/2024 A. Acey Dep. pp. 161(114)-164).**

4. On 04/18/2022, I complained to Talis that the 10/08/2022 false safety report was caused by racial bias; Talis dismissed the complaint.

**PTE 77 (Complaint doc 8-1, 1145-50).**

5. Company procedure for reporting harassment tells employees to make complaints to their direct supervisor, HR or any manager they feel comfortable with, and promised immediate, appropriate, and corrective action if “any conduct contrary to the policy” is confirmed.

**PTE 78 (12/2021 Company Handbook p. 9 (“Reporting of Harassment”), AA-19).**

6. InductEV’s HR department was in charge of communicating and carrying out InductEV’s anti-harassment policy.

**PTE 1 (see fact 1 under behaviors-gender). PTE 79 (06/2021 assigned onboarding schedule and Anti-harassment Training Title Page).**

7. I complained to my supervisor (Joren Wendschuh) of racial harassment at least once in one-on-one meetings.

**PTE 51** (*see fact 7 in “behavior-race”*).

#### **Severity-Race**

1. On 03/02/2021, My supervisor stated that I had become super aversive after I blamed myself for treatment from coworkers.

**PTE 80 (03/02/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (III)(15), originals filed in Doc 40-2 pp. 1632-1669).**

2. My experiences of workplace racial harassment caused additional conflict between myself and my spouse.

**PTE 81 (04/18/2024 A. Acey Dep. pp. 69(113)-70(115)).**

3. On 04/09/2024, my spouse claimed to have watched my work environment at InductEV affect my mood and my behavior.

**PTE 82 (04/09/2024 D. Hackman Dep. pp. 43 (116)- p45 (1123)).**

### III. Failure to Promote

#### **Behavior-Non-promotion**

1. In the months surrounding InductEV’s performance evaluations process, several projects were asked of me that exceeded my formal role and description.

**PTE 83 (11/12/2021 Multi-Switch Emergency Stopcircuit Final Board Schematic; 09-24-2021 Cost-Tiered Primer Surface Energy Consult; 01/10/2022 Laser Classification Calculation; 11/30/2022 Coil Connector Limits Test Plan). PTE 84 (04/09/2024 D. Hackman Dep. pp. 106(116)-110).**

2. On 12/04/2021, I submitted my self-review portion, expecting that I would be compensated or promoted in proportion to my current and future work within InductEV.

**PTE 85 (12/04/2021 Performance Evaluation Excerpt, Doc 20-17 p.2).**

3. On 01/04/2022, my supervisor advised me of a team opening for process engineer. Later,

-- but before my performance meeting--- I submitted and began to discuss a new description and role with my supervisor.

**PTE 86 (02/09/2022 Email from myself to my Supervisor). Add text message**

4. During this time, tasks asked of me continue to exceed that of my formal job title and description.

**PTE 87 (02/10/2022 ANSI Safety lens calculation; 02-16-2022 ANSI Laser PPE and Administrative Controls Determination; 02-24-2022 Corrective Procedure; 03/27/2022 JIRA Roadmap Presentation Notes).**

**PTE 88 (04/09/2024 D. Hackman Dep. pp. 110(116)-116(114))**

5. On 02/04/2022, I explicitly expressed continued interest in reclassifying my role to better match my tasks and InductEV's hostile work environment

**PTE 89 (02/04/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (II)(22), *originals filed in Doc 40-2 pp. 570-571*).**

6. After my final evaluation meeting, I continue to meet with my supervisor to discuss and revise my proposed job description, but my job title in description remained unchanged.

**PTE 90 (03/10/2022 Teams meeting Scheduled between myself and my Supervisor).**

**PTE 91 (02/2022-04/2022 Emails between myself and my Supervisor). PTE 92 (04/18/2024 A. Acey Dep p. 171 (117-16)). PTE 93 (04/11/2024 A. Acey Dep. p. 151(115)-153(119)).**

7. On 04/08/2022, I submitted an article to my boss about invisible labor and misclassification of roles.

**PTE 94 (04/08/2022 Teams Messages between myself and my Supervisor, Doc 40 Transcript (IV)(3)(7:45 AM-8:02 AM), *originals filed in Doc 40-2 pp. 1241-1248*).**

8. Around 04/20/2022, I was asked to provide and discuss life trajectory to aid in my being reclassified.

**PTE 95a (04-20-2022 Emails between myself, my Supervisor, and D. Hackman).**

**PTE 95b (04/2022 Supervisor feedback).**

9. My Job description was never changed. 12 days after the Defendant received notice of the EEOC investigation, my supervisor deleted evidence of one of my most recent work products.

**PTE 96 (08/03/2022 Notice of Charge AND 08/15/2022 JIRA Notification)**

#### **Motivations-Non-promotion**

1. In 2021, on an interview evaluation form for the senior technician role, my supervisor indicated an interest in having me perform “Engineering” tasks while receiving the formal role and benefits of a general technician.

**PTE 97 (04/28/2021 Interview Evaluations from both Supervisor and CAO, ECF 20-5, ECF 20-7)**

2. Between 2016 and 2022, InductEV promoted or reclassified at least 24 persons: Bill Gallagher, Patti Rensel, Rob Rosenberger, Daniel Schwartz, Seth Wolgemuth, Kyle Abramowitz, Maria Tabbut, Daniel Hackman, John Wolgemuth, Anthony Calabro, Brian Wisniewski, Frank McMahon, Jason Stolnis, Jerry Frank, Erik Lydick, Chris Schatz, Diana Wilmes, Taylor Johnson, Jennifer Steiner, Stephen Carras, Jerry Girard, Harry Nask, and Ryan Taggart, Daniel Winters.

**PTE 98 (03/18/2024 Defendant’s Answers (1144-145); 03/28/2024 P. Rensel Dep. p. 10; 04/08/2024 M. Tabbut Dep. p. 25; Various Employee Profiles).**

3. The persons listed vary in terms of experience, tenure, and department--some were even promoted several times before Dec 2022.
4. All of these persons are white.
5. The only records produced, of InductEV promoting or reclassifying a black person from 2011-2022, are those records pertaining to Omar Jackson in November of 2021.



InductEV was founded by or before 2011.

6. Talis, who dismissed my complaints of racial harassment also influenced hiring and promotions decisions as in InductEV's HR executive.
7. Two days after my complaining of racial harassment, Talis discussed both my complaint and career path with my supervisor.

**PTE 72 (see fact 1 under "awareness-race"). PTE 99 (02/16/2022 Text Message from Joren Wendschuh, ECF 15-49(p.2)).**

8. On 01/14/2019, InductEV's engineering VP (Ben Cohen) recorded that a white employee required more supervision and was "not performing at [their title's] level" throughout 2018, yet he gave them a leadership opportunity running the company's test department.

**PTE 100 (Cohen's 2018 and 2019 Overall Manager Comments of B. Gallagher).**

9. In September of 2022, Cohen agreed with my supervisor (Joren Wendschuh) a black employee (Omar Jackson)'s promotion had been delayed in 2019 by criteria beyond his job description. Within the same email, both Wendschuh and Cohen were able to agree that a white employee had earned their promotion (despite this employee not matching his role's formal requirements).

**PTE 66 (see fact 6 in "motivations- race"). PTE 101 (04/03/2024 O. Jackson Dep. pp. 73(1119)-75(1123)). PTE 102 (04/03/2024 O. Jackson Dep. pp. 88(1118)-94(1119)).**

**PTE 103 (Descriptions of Senior and General Tech Roles with Resumes of O. Jackson and S. Wolgemuth)**

10. This appeared to be in spite of the black employee (Omar Jackson)'s own requests for a promotion.

**PTE 101 (see above citation).**

11. Frank McMahon, like Omar Jackson, also had a "career gap"; unlike O. Jackson, McMahon's 2.75 year "gap" directly preceded his time at InductEV, yet did not prevent

InductEV from immediately classifying him as a Senior Engineer in 2017. McMahon is also white. **PTE 98 (see fact 2 of “motivations-non-promotion”).**

12. On 05/2021, Harry Nask, like Omar Jackson, was hired after applying to a company opening for a non-senior role; unlike O. Jackson, Nask was offered the Senior designation upon hire. Nask is white.

**PTE 98 (see fact 2 of “motivations-non-promotion”)**

13. Talis was included on the e-mail thread but made no denials of Wendschuh’s statement.
14. The decisionmakers for Omar’s benefits included the decisionmakers for mine and others who had been promoted.

**PTE 62 (see fact 3 in “motivations- race”). PTE 99 (see fact 5 in “motivations-non promotion”). PTE 104 (05/2021 and 09/2022 Hiring evaluations and Emails amongst CAO, VP Engineering and CEO, ECF 20-6 and 20-10).**

#### **Awareness-Non-promotion**

1. During my employment, InductEV’s HR department reviewed performance evaluations and escalated promotion requests to the CEO. The department was also aware -or should have been- of the laws prohibiting workplace racial discrimination.

**PTE 64 (see fact 3 in “motivations- race”).**

2. The HR department was also aware of my supervisor’s intent for my job tasks. **PTE 105 (04/11/2024 A. Acey Dep. p. 88(112-1119), PTE 97 (see fact 1 in “motivations- non-promotion”).**
3. InductEV’s employee handbook required employees to bring concerns over equal employment opportunities such as terms and conditions of employment directly to the CEO.

**PTE 106 (12/2021 Company Handbook, p. 6 (“Equal Employment Opportunities”),**

**AA-19).**

4. InductEV's employee handbook also required employees to bring concerns over retaliation (for complaining to the CEO), to the CEO.

**PTE 106 (see above citation).**

5. InductEV's equal opportunity complaints policy was unrealistic and in bad faith.

### **Monetary Effect-Non-promotion**

1. During my employment, InductEV's 401k match was based on base pay

**PTE 107 (12/2021 Company Handbook, p. 17 (bottom portion), AA-19).**

2. During my employment, InductEV's standard raises were often based on base pay.

InductEV also established salary grades and midpoints based on job classification.

**PTE 64 (see fact 3 in "motivations- race"). PTE 114 (Defendant's Production, INDUCTEV INITDISCL019275.xlsx).**

3. During my employment, InductEV's disability benefits were also based on base pay

**PTE 108 (12/2021 Company Handbook, p. 20 ("Short Term Disability"), AA-19).**

1. IV. Retaliation for filing a Charge

*Plaintiff intends to assert all claims listed in doc. 92, with the addition of the following:*

### **Severity-Retaliation**

1. Throughout this case, InductEV has continued to blame me for the mental and emotional damage that I have sustained because of their discrimination, while also antagonizing me in the name of zealous advocacy.

**PTE 109 (04/18/2024 A. Acey Dep. pp. 57-65, 93-98, 129(II16)-130 (II9), 242(II10)-**

**243(II20)). PTE 110 (04/18/2024 A. Acey Dep. Video cc 10:59:29-11:02:57, 11:12:41-**

**11:19:09, 11:36:00-11:37:17, 11:54:05-11:54:34, 3:00:00-3:01:50). PTE 111  
(08/28/2024 Defendant Email). PTE 112 (03/27/2024 J. Acey Dep. pp. 50-51). PTE  
113 (04/09/2024 D. Hackman Dep. p. 93).**

*\*All evidence listed on page 1 of Doc 92-2 (appendix of Doc 92 motion for partial Summary judgement) is also intended to be presented at trial with exhibits 1-17 becoming PTE 115-PTE 131 respectively, (with Ex 1 of Doc 92 starting as PTE 115).*

Sincerely,

Assata Acey Hackman /s/

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Date: 09/08/2024

